

VENDOR AGREEMENT

Vendor Contract Identification Number _____

Vendor Authorization Number _____

This Vendor Agreement is made between the State of California, Department of Public Health, Women, Infants, and Children (WIC) Supplemental Nutrition Food Branch, hereafter called the State and/or the WIC Program, and the owner/store named below, hereafter called the vendor.

Vendor Store Name	
Street Address	
City	ZIP Code
Mailing Address (if different from business address)	
Sole Owner Name, Partners' Names, Limited Liability Company Name, or Corporation Name.	
1.	
2.	
3.	

The individual(s) or business entity named above, who has legal authority to individually or jointly represent the vendor, agrees to participate in the Special Supplemental Nutrition Program for Women, Infants, and Children (hereafter known as the WIC Program) and agrees to the terms of this Vendor Agreement and agrees to comply with Title 7, Code of Federal Regulations, Part 246 (7CFR 246); California Health and Safety Code, Sections 123275 et seq.; Title 22, California Code of Regulations (CCR), Section 40601 et seq. and other applicable Federal and State laws, regulations, and rules governing the WIC Program, agrees to be subject to the vendor sanction provisions as provided for in 7CFR 246 and Title 22 CCR, Sections 40740 and 40741, and agrees to abide by the administrative appeal provisions as provided for in 7CFR 246 and Title 22 CCR.

This Vendor Agreement is a standard Vendor Agreement used statewide for all vendors authorized to participate in the WIC Program. The WIC Program may authorize more than one vendor store of a single vendor ownership in a Master Vendor Agreement, which shall specify all authorized vendor stores covered by the Master Vendor Agreement. Each vendor store, including each store in a Master Vendor Agreement must complete an application and is subject to authorization criteria. Each vendor store, including each store in a Master Vendor Agreement, is authorized separately from any other vendor store operated under the vendor's ownership. The State shall add or delete an individual vendor store independently of the vendor(s) remaining on the Master Vendor Agreement, except as noted in Article I Rule 2 of this Vendor Agreement. The State shall incorporate by addendum to the Master Vendor Agreement the addition or deletion of a vendor store.

ARTICLE I: TERMINATION OF VENDOR AGREEMENT

- RULE 1.** Vendor Agreement remains in effect for ___ months from _____ unless it is terminated earlier by mutual agreement, by the vendor, or for cause by the WIC Program after 15 days written notice, except for Article I Rule 2 of this Vendor Agreement which is effective immediately or a disqualification based on Title 22 CCR, Section 40740 (c), which becomes effective on the date of receipt of the notice of disqualification.
- RULE 2.** The Vendor Agreement will be terminated immediately by the WIC Program, if the WIC Program determines that the vendor provided false information in its application for authorization.
- RULE 3.** Vendor authorization will be terminated if the vendor fails to comply with the Vendor Agreement and Federal and State statutes, regulations, policies, and procedures governing the WIC Program, including any changes made during the agreement period.
- RULE 4.** A vendor shall be selected for authorization to participate in the State's statewide food delivery system based on the State's authorization criteria. Authorization will be terminated if at any time during the term of this Vendor Agreement the vendor does not comply with the vendor authorization criteria, including any changes to the criteria made during the agreement period.
- RULE 5.** Vendor authorization will be terminated if the vendor is disqualified from the Food Stamp Program or has received a Food Stamp Program civil money penalty in lieu of disqualification; or does not maintain a permit under the California Uniform Retail Food Facility Law (CURFFL).
- RULE 6.** The Vendor Agreement will be terminated if the WIC Program identifies a conflict of interest, as defined by applicable State laws, regulations, and policies, between the vendor and the WIC Program or its WIC local agencies. Signing of this Vendor Agreement constitutes representation by the vendor that there is no conflict of interest between the vendor and the WIC Program or any WIC local agency.
- RULE 7.** The vendor has the right to appeal any disqualification from continued participation in the WIC Program or any other adverse action by the State. Specific instructions regarding appeal rights will be provided to the vendor at the time of notification of disqualification or any other adverse action.
- RULE 8.** The vendor must provide the State at least fifteen (15) days advance written notification of any change in ownership, vendor store location, or cessation of operations. Such changes terminate the authorization for the vendor.
- RULE 9.** In the event the State or the vendor terminates this Vendor Agreement a new Vendor Agreement must be executed in order for the vendor to continue as an authorized vendor in the WIC Program. The vendor must reapply for authorization after termination or expiration.

RULE 10. Neither the State nor the vendor has an obligation to renew this Vendor Agreement. The expiration of this Vendor Agreement is not subject to appeal.

RULE 11. This Vendor Agreement does not constitute a property interest, license or a right.

ARTICLE II: VENDOR RESPONSIBILITIES

As an authorized vendor in the WIC Program, the vendor agrees to comply with the following rules:

RULE 1: (a) Accept food instruments only if that vendor's name or the words "WIC AUTHORIZED VENDOR" have been entered on the "Pay to the Order of" line on the face of the food instrument.

(b) Refuse to accept food instruments payable to any other vendor.

(c) Accept food instruments only from participants.

RULE 2: (a) Maintain on hand the minimum inventory of supplemental foods in each food category.

(b) Maintain, for a period of at least three years, records including but not limited to: all inventory records necessary for Federal and State tax reporting purposes including but not limited to Board of Equalization Sales and Use Tax Returns, inventory records showing all wholesale and retail food purchases; invoices identifying the quantity and prices of specific supplemental foods; sales and use tax returns, and books of account and other pertinent records that are necessary to substantiate the volume and prices charged through food instrument redemption and for determination and verification of whether vendor is an above-50-percent vendor. Cash register receipts without specific identification of the quantity, unit price and supplemental food items purchased will not be accepted as evidence of the supplemental food purchases.

(c) Provide agents of the State, the WIC Program, and the Comptroller General of the United States access to the records and to all food instruments in the vendor's possession.

RULE 3: (a) Accept food instruments only at the time of actual purchase.

(b) Accept food instruments only for the food items and quantities printed on the food instrument. No substitutions or other brands or items are allowed; including food items, non-food items, cash, or credit, including rain checks.

(c) Accept food instruments only on or between the "first day to use" and the "last day to use" printed on the face of the food instrument. The vendor shall not accept any food instruments prior to the "first day to use" or after the "last day to use" dates.

(d) Accept food instruments only at the vendor store location authorized by this Vendor Agreement.

(e) Redeem all food instruments by following redemption procedures established by the WIC Program. Food instrument redemption procedures established by the WIC Program are incorporated into this Vendor Agreement by the addendum entitled "Food Instrument Redemption Procedures."

(f) Not redeem a food instrument outside of authorized channels. Authorized channels is defined as a vendor accepting a food instrument at the vendor store authorized by its Vendor Agreement and associating that food instrument's serial number with the vendor store's vendor authorization number and then depositing the food instrument into that vendor's bank account. Food instruments shall not be used in the repayment of debts to other parties.

(g) Deposit food instruments within forty-five (45) days of the "first day to use" date printed on the food instrument.

- (h) Refuse to accept the return of foods purchased with food instruments. These foods may not be returned for cash or credit or be exchanged for unauthorized foods. The vendor shall not provide refunds or exchanges for supplemental food items purchased with food instruments except exchanges of an identical food item when the original food item is defective, spoiled or in the case of infant formula, has a date beyond which the item can be legally sold.
- (i) Upon demand from the WIC Program, pay claims up to and including the full amount of the price for which the food instrument was redeemed as stipulated by the WIC Program.

- RULE 4:**
- (a) Ensure the participant signs the food instrument in the presence of the cashier. The vendor shall not accept pre-signed food instruments without a confirming signature.
 - (b) Compare the signature on each food instrument with the signature on the customer's WIC Identification/Authorization Folder in the presence of the cashier. Ensure that the customer's signature appears on the WIC Identification/Authorization Folder.
 - (c) Keep the identity of the participant confidential. Vendors shall not require participants to provide any personal information other than the participant's WIC Identification/Authorization Folder in the process of exchanging food instruments for supplemental food items.

- RULE 5:**
- (a) Enter the actual selling price of the specific quantity of supplemental foods on each food instrument at the time of purchase and before the participant signs each food instrument.
 - (b) Provide supplemental foods at the current posted price or at less than the current price charged to other customers.
 - (c) Maintain prices for supplemental foods that are reasonable and comparable to the prices of other stores of a similar size and type in the same geographic area.
 - (d) Not charge sales tax on supplemental foods sold to participants.
 - (e) Provide supplemental foods to participants free of any charge.
 - (f) Not seek restitution from the participant for food instruments not paid or partially paid.
 - (g) Post prices clearly visible to all customers for all supplemental foods. Prices shall either be marked on the individual items or posted on the shelves on which the items are placed.
 - (h) Provide access to food instruments negotiated but not yet deposited to a WIC Program representative for review upon demand.
 - (i) Not give change or allow the participant to purchase additional items when the actual selling price of the specified supplemental foods is less than the maximum allowable Department reimbursement rate for that food instrument.

- RULE 6:**
- (a) Provide to participants during food instrument transactions the same courtesies extended to other customers, including incentives such as items offered through frequent shopper programs, buy-one-get-one-free promotions, cents-off discounts, trading stamps, participation in store raffles, and other discounts and promotions. A vendor designated as an above-50-percent vendor shall be restricted to those incentives as specified in the addendum entitled "Approval of Provision for a 50 Percent Vendor to Provide Incentive Items." An above-50-percent vendor shall have an approved copy of this addendum to its Vendor Agreement on file with the WIC Program prior to offering these approved incentives to participants.

- (b) Comply with the provisions of Title VI of the Civil Rights Act, which provides for equal treatment of all persons and Federal regulations set forth in Title 7, Code of Federal Regulations, Parts 15, 15a and 15b governing discrimination. The vendor shall comply with California Government Code Section 12990 (d) and Title 2 CCR, Sections 8103 and 8107 which prohibit discrimination against any person because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), or sex.
- (c) Report any participants attempting to violate WIC Program rules when using food instruments. Report such activities to the State on the form "Grocer Report Concerning WIC Participants," DHS 4007.

- RULE 7.**
- (a) Purchase all infant formula authorized for purchase with a food instrument from only the following authorized suppliers:
 - (i) A manufacturer of infant formula registered with the Food and Drug Administration.
 - (ii) A wholesaler, distributor, or retailer within California that has a current, valid seller's permit number that the vendor has verified through the California Board of Equalization.
 - (iii) A wholesaler, distributor, or retailer outside of California that is a licensed supplier of infant formula in that state and is included on that state WIC agency's list of authorized suppliers of infant formula.
 - (b) The vendor shall not purchase or provide to participants infant formula that has been obtained or purchased from any source other than as specified in Article II Rule 7(a) of this Vendor Agreement.
 - (c) At the time of authorization and upon request from the WIC Program, the vendor shall provide to the WIC Program information regarding the supplier(s) of all infant formula stocked by the vendor, as specified below:
 - (i) For a supplier that is a manufacturer of infant formula registered with the Food and Drug Administration, the name and address of that manufacturer.
 - (ii) For a supplier that is a wholesaler, distributor, or retailer within California, the name and address of that wholesaler, distributor, or retailer and its corresponding California seller's permit number.
 - (iii) For a supplier that is a wholesaler, distributor, or retailer outside of California, the name and address of that wholesaler, distributor, or retailer and correspondence from that state WIC agency confirming that the supplier is included on that state WIC agency's list of authorized suppliers of infant formula.
 - (d) In addition to Vendor Agreement Article II Rule 2(b), the vendor shall retain for three years a record that documents that the purchase of infant formula was from an authorized supplier and associate that document with the invoice for the purchase of infant formula. An invoice for purchase of infant formula that is not from an authorized supplier shall not be considered an acceptable record of inventory. For each invoice containing a purchase of infant formula, the vendor shall retain a record that documents that the purchase of infant formula was from an authorized supplier as specified below:
 - (i) For an invoice from a manufacturer of infant formula registered with the Food and Drug Administration, the name and address of that manufacturer.
 - (ii) For an invoice from a wholesaler, distributor, or retailer within California, the California seller's permit number of that wholesaler, distributor, or retailer.

- (iii) For an invoice from a wholesaler, distributor, or retailer outside of California, correspondence from that state WIC agency confirming that the supplier is included on that state WIC agency's list of authorized suppliers of infant formula.

- (e) Upon request, the vendor shall provide to agents of the State, the WIC Program, and the Comptroller General of the United States invoices for all purchases of infant formula and records that document that the infant formula purchase was from an authorized supplier.

ARTICLE III: ADDITIONAL VENDOR PROVISIONS

As an authorized vendor in the WIC Program, the vendor shall:

- RULE 1.** Accept training and other information from the State in carrying out the terms of this Vendor Agreement.
- RULE 2.** Attend vendor training as required by the WIC Program. The vendor or a representative of the vendor must participate in the annual vendor training provided by the WIC Program. In addition, the vendor or a representative of the vendor must attend interactive training once every three years. Attendance at the interactive vendor training is a condition for continued authorization under this Vendor Agreement. The WIC Program has discretion to designate the date, time, and location of all interactive training. The WIC Program will provide the vendor with at least one alternative date in which to attend such training.
- RULE 3.** Train and inform all employees who participate in WIC Program transactions or handle food instruments of the vendor's obligation to abide by the terms of this Vendor Agreement.
- RULE 4.** Assume legal responsibility for the actions of any and all employees who violate any of the terms of this Vendor Agreement. This responsibility extends to actions of its owners, officers, managers, agents, or employees who violate any terms of the Vendor Agreement.
- RULE 5.** Accept designation of vendor type by the WIC Program and accept any changes in the designation of vendor type as a result of reassessment by the WIC Program.
- RULE 6.** Accept assignment by the WIC Program into a peer group and accept any changes in the peer group assignment as a result of reassessment by the WIC Program.
- RULE 7.** Assume responsibility for ensuring the security of the information provided to the vendor by the WIC Program; including telephone PIN number, user identification numbers, passwords and access codes that is required for submission of food instrument serial numbers to the WIC Program. Refuse to hold the WIC Program or the State liable for harm or loss to the vendor from any breach of the security of this information. The vendor is responsible for ensuring the proper training of any staff it delegates to complete food instrument redemption procedures as contained in the incorporated Vendor Agreement Addendum entitled "Food Instrument Redemption Procedures".
- RULE 8.** Accept up to the maximum allowable Department reimbursement rate for the vendor's peer group as payment in full for the maximum quantity of supplemental food listed on the food instrument.
- RULE 9.** Accept State adjustments to the purchase price on the food instruments submitted by the vendor for redemption or rejection of the food instrument for payment to ensure compliance with price limitations applicable to the vendor's peer group for that food instrument.

- RULE 10.** Not use or display the acronym “WIC” and logo (registered by the U.S. Department of Agriculture (USDA) with the U.S. Patent and Trademark Office) in any manner or on any materials unless approved by the WIC Program for use by vendors.
- RULE 11.** Not attempt to influence participants’ store selection through solicitation on or in the vicinity of a WIC local agency clinic site.
- RULE 12.** Agree to follow and adhere to the Administrative Appeals provisions when appealing an adverse action. These provisions are provided for in Title 22 CCR, Sections 40751 and 40752. Specific instructions regarding appeal rights will be provided to the vendor at the time of notification of disqualification or other adverse action. The following actions are not subject to appeal pursuant to 7CFR 246.18: validity or appropriateness of vendor authorization criteria; validity or appropriateness of the State’s vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors; validity or appropriateness of participant access criteria or a participant access determination; expiration of a Vendor Agreement; disputes regarding food instrument payments and vendor claims; disqualification of a vendor as a result of disqualification from the Food Stamp Program.
- RULE 13.** Not assign or subcontract any vendor duties under this Vendor Agreement.
- RULE 14.** Direct correspondence regarding this Vendor Agreement to:
- WIC Supplemental Nutrition Program
California Department of Public Health
MS 8600
P.O. Box 997413
Sacramento, CA 95899-9977
Attention: Food Management and Integrity Section

Information about the WIC Program is available on the Internet at www.wicworks.ca.gov.

ARTICLE IV: STATE RESPONSIBILITIES

The State reserves the right to:

1. Issue from time to time, revisions to this Vendor Agreement to conform to amendments to applicable Federal and State laws, regulations, and policies.
2. Establish the maximum allowable Department reimbursement rate as payment in full for the maximum allowable quantity of food listed on the food instrument.
3. Designate the vendor type of a vendor. Assess and designate vendor type at initial authorization and periodically thereafter.
4. Assign vendors to peer groups. Assess and reassign a vendor to a peer group as changes affect original peer group assignment.
5. Provide to the vendor information and directions that are required for submission of food instrument serial numbers to the WIC Program.
6. Review the vendor's supplemental food prices to determine if these prices are comparable to other vendors in their peer group.
7. Monitor any vendor for compliance with this Vendor Agreement through activities such as compliance investigations, on-site inspections, and audits.

8. Audit a vendor's records and books of account to determine if violations of this Vendor Agreement have occurred and to identify amounts due the State for improperly transacted food instruments, including amounts which cannot be substantiated pursuant to Article II Rule 2(b) of this Vendor Agreement and for food instrument reimbursement amounts for infant formula that the vendor did not purchase from an authorized supplier pursuant to Article II Rules 2(b) and 7(d) of this Vendor Agreement.
9. Deny payment or establish a claim for each food instrument transacted in violation of any of the rules of this Vendor Agreement. A claim will either be the full amount of an audit finding determined during an audit of a vendor or the amount of the full purchase price of any food instrument transacted in violation of WIC Program regulations as identified during a compliance buy or on-site inspection. In addition to assessing a claim, the WIC Program may sanction the vendor in accordance with Title 22 CCR, Sections 40740 and 40741.
10. Pursuant to 7CFR 246.12 (h)(3)(xvi), immediately terminate the Vendor Agreement, if the WIC Program determines that the vendor provided false information in its application for authorization. Notification of the termination of the Vendor Agreement for this reason does not need to be made prior to the actual termination.
11. Except for an immediate termination noted in Article IV 10 of this Vendor Agreement and for a disqualification based on Title 22 CCR, Section 40740 (c) which becomes effective on the date of receipt of the notice of disqualification, terminate the Vendor Agreement with a minimum of 15 days written notice if it is determined that the vendor:
 - (a) Failed to comply with any of the rules or additional provisions of this Vendor Agreement;
 - (b) Failed to repay the State any money owed as a result of any violation of the rules of this Vendor Agreement, unless the vendor is making payments in compliance with a repayment schedule;
 - (c) Has been disqualified from the Food Stamp Program or has received a Food Stamp Program civil money penalty in lieu of disqualification;
 - (d) Has failed to maintain compliance with the vendor authorization criteria throughout the agreement period, including any changes to criteria; or
 - (e) Has committed any violations subject to disqualification pursuant to 7CFR 246 and Title 22 CCR, Sections 40740 and 40741.
12. Notify the vendor that pursuant to 7CFR 246.18(b)(1), a disqualification from the WIC Program may result in disqualification from the Food Stamp Program in accordance with Food Stamp Program regulations contained in 7CFR 278.6(e), and that such disqualification is not subject to appeal.
13. Prosecute, under applicable Federal, State, or local laws, any vendor who has willfully misapplied, stolen, or fraudulently obtained WIC Program funds. If the value of such funds is \$100 or more, then the vendor shall be subject to a fine of not more than \$25,000 or imprisonment for no more than five (5) years, or both. If the value of such funds is less than \$100, then the penalties shall be a fine of not more than \$1,000, or imprisonment for no more than one (1) year, or both. In addition, the vendor shall make full restitution to the State for the value of all food instruments transacted in violation of this Vendor Agreement.

ARTICLE V: CERTIFICATION

The vendor has read, understands, and agrees to follow all the terms of this Vendor Agreement. The vendor also agrees to read any amendments or updates to this Vendor Agreement. The vendor further agrees to comply with such amendments or updates if the vendor continues participation thereafter in the WIC Program.

The undersigned certifies that he/she has the full legal authority to bind the vendor in this contract.

Note: If the vendor is a limited liability company or a corporation, the Vendor Agreement must be signed by two members of the limited liability company or two officers of the corporation, if there is more than one officer.

(Note to WIC Staff: Business owner signature boxes can be added or deleted, as appropriate.)

Signature	Date Signed
Sole Owner	
Partner (All partners in the partnership agreement are required to sign)	
Partner	
Partner	
Partner	
Limited Liability Company (Two signatures required)	
1.	
Limited Liability Company (Two signatures required)	
2.	
Corporation (Two signatures required)	
1.	
Corporation (Two signatures required)	
2.	
Signature of Chief, WIC Supplemental Nutrition Branch, or Designee	

FOOD INSTRUMENT REDEMPTION PROCEDURES

ADDENDUM TO VENDOR AGREEMENT

This Addendum, specific to the requirements of Article II, Rule 3(e) of the Vendor Agreement pursuant to Title 7, Code of Federal Regulation (7CFR) Part 246.12(f)(3), is hereby incorporated and made a part of the Vendor Agreement. According to cited federal authority, "The State agency must implement procedures to ensure each food instrument submitted for redemption can be identified by the vendor that submitted the food instrument. Each vendor operated by a single business entity must be identified separately. The State agency may identify vendors by requiring that all authorized vendors stamp their names and/or enter a vendor identification number on all food instruments prior to submitting them for redemption."

ARTICLE I: VENDOR RESPONSIBILITIES

As an authorized vendor in the WIC Program, the vendor shall:

- RULE 1.** Agree to accept as criteria for continued authorization with the WIC Program the requirements of this Addendum for redeeming food instruments received from Program participants in exchange for supplemental foods.
- RULE 2.** Redeem food instruments for reimbursement by transmitting the serial numbers of all food instruments to the WIC Program through one of the submission options described below in Rule 2 (a) through (c) prior to depositing the food instruments into its bank account.
 - (a) Use a touchtone telephone to call the toll free number (800) 224-7472 and follow the step by step instructions provided by the telephone voice system.
 - (b) Access the WIC website at vwix.dhs.ca.gov. Use a computer equipped with web browser software and an internet connection to access the WIC Program website at vwix.dhs.ca.gov and follow the menu of instructions provided by the WIC website.
 - (c) Acquire technology that will scan the Magnetic Ink Character Recognition (MICR) line imprinted on each food instrument, collect each serial number and prepare in an electronic file format that can be submitted to the WIC Program through the WIC website or through File Transfer Protocol (FTP) software.
- RULE 3.** After the food instrument has been associated with the vendor authorization number, deposit the food instrument into the vendor's bank account.
- RULE 4.** Assume responsibility, should it choose either of the submission options specified in Rule 2(c), for acquisition of the technology to ensure successful transmission of food instrument serial numbers to the WIC Program.
- RULE 5.** Use any or all of the submission options specified in this Addendum to transmit serial numbers of food instruments to the WIC Program contingent upon its ability to acquire the technology, resources and knowledge required to implement each submission option.
- RULE 6.** Acknowledge that failure on its part to meet the requirements for submitting food instrument serial numbers may result in the delay or no receipt of reimbursement for each food instrument not redeemed as specified in this Addendum.
- RULE 7.** Accept responsibility for ensuring successful transmission of all food instrument serial numbers it redeems to the WIC Program through any and all submission options in accordance with the requirements of this Addendum.

RULE 8. Accept all financial responsibility for all account costs including returned check charges incurred by the vendor in the food instrument redemption process.

ARTICLE II: STATE RESPONSIBILITIES

The State reserves the right to:

1. Provide the vendor access to information and instruction for using the submission options specified in Article I Rule 2(a) and 2(b) of this Addendum.
2. Provide the vendor with the opportunity to confirm transmission of food instrument serial numbers to the WIC Program for each submission option.